

AMENDED IN ASSEMBLY JUNE 17, 2013

AMENDED IN SENATE APRIL 11, 2013

AMENDED IN SENATE MARCH 18, 2013

SENATE BILL

No. 220

Introduced by Senator Beall

February 11, 2013

An act to amend Sections 9353, 19144, 20636, 20636.1, 20677.4, 20683.2, 20691, 20692, 20693, 20731, 20737, 20891, 20909, 21010, 21011, 21033, 21052, 21060, 21070.5, 21070.6, 21070.7, 21092, 21150, 21202, 22760, 22772, 75005, and 75505 of, ~~and~~ to add Section 20004 to, *and to repeal and add Article 8 (commencing with Section 21220) to Chapter 12 of Part 3 of Division 5 of Title 2 of*, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as amended, Beall. California Public Employees' Pension Reform Act of 2013: administration.

The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to specified public employees. Existing law also establishes the Judges' Retirement System and Judges' Retirement System II, which provide pension benefits to judges, as defined, and the Legislators' Retirement System, which provides pension benefits to specified elective officers of the state, other than judges, and to legislative statutory officers. Existing law requires that these systems be administered by the Board of Administration of PERS. Existing law, the California Public Employees' Pension Reform Act of 2013 (PEPRA), on and after January 1, 2013, generally requires a public retirement

system, as defined, to modify its plan or plans to comply with the act, as specified. Existing law establishes the Public ~~Employee~~ *Employees'* Medical and Hospital Care Act (PEMHCA) for the purpose of providing postemployment health care benefits to specified retirees.

This bill would require the Board of Administration of PERS to administer each of the retirement systems described above in conformance with PEPRA as if the provisions of the act were contained in the provisions governing those systems. The bill would provide that if the board determines that there is a conflict between the provisions of PEPRA and respective provisions of those systems, the provisions of PEPRA control. The bill would make various changes in PERL and in PEMHCA to conform with the requirements of PEPRA. *The bill would repeal and add provisions addressing employment after retirement to provide for conformance with the requirements of PEPRA, subject to specified exceptions including provisions accounting for the suspension and payment of the retirement allowance of an elective officer. The bill prescribe requirements for the calculation of the retirement allowance of members with service in different retirement systems, at least one of which is subject to PEPRA, with different minimum retirement ages, when the member retires before 52 years of age, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9353 of the Government Code is amended
2 to read:
3 9353. This system shall be administered by the Board of
4 Administration of the Public Employees' Retirement System. The
5 board shall administer this system in accordance with the
6 provisions of the Public Employees' Retirement Law to the same
7 extent and with the same effect as if those provisions are contained
8 in the Legislators' Retirement Law, except for those provisions
9 which provide for the payment of an allowance or other benefit
10 and except for those provisions which conflict with any provision
11 or provisions of the Legislators' Retirement Law. To the extent
12 applicable, the board shall also administer this system in
13 conformance with the California Public Employees' Pension
14 Reform Act of 2013 (Article 4 (commencing with Section 7522))

1 of Chapter 21 of Division 7 of Title 1) to the same extent and with
2 the same effect as if the provisions of the act are contained in the
3 Legislators' Retirement Law. If the Board of Administration of
4 the Public Employees' Retirement System determines that there
5 is a conflict between the provisions of the California Public
6 Employees' Pension Reform Act of 2013 and this chapter, the
7 provisions of the California Public Employees' Pension Reform
8 Act of 2013 shall control.

9 *SEC. 2. Section 19144 of the Government Code is amended to*
10 *read:*

11 19144. Subject to ~~Sections 21223 and 21224~~ Article 8
12 *(commencing with Section 21220) of Chapter 12 of Part 3*, a person
13 who has retired from state civil service may be employed
14 temporarily in a civil service position at any time following
15 retirement, provided that the position is either:

16 (a) In the class in which the person had permanent or
17 probationary status or a career executive assignment appointment
18 at the time of retirement.

19 (b) In another class to which the person could have been
20 permanently transferred, reinstated, or demoted at the time of
21 retirement.

22 ~~SEC. 2.~~

23 *SEC. 3.* Section 20004 is added to the Government Code, to
24 read:

25 20004. (a) It is the intent of the Legislature, in enacting this
26 section and amending this part, to comply with, and implement
27 the provisions of, the California Public Employees' Pension
28 Reform Act of 2013 (Article 4 (commencing with Section 7522)
29 of Chapter 21 of Division 7 of Title 1) to ensure the continued
30 ability of the board to invest the retirement fund and administer
31 the system in conformity with its duties and responsibilities and
32 to ensure that members are provided with the retirement and related
33 benefits to which they are entitled pursuant to law.

34 (b) To achieve the purposes set forth in subdivision (a), the
35 board shall have all powers reasonably necessary to invest the
36 assets associated with, and to administer and implement the
37 provisions of, the California Public Employees' Pension Reform
38 Act of 2013, to the extent and with the same effect as if the
39 provisions of the act are contained in the Public Employees'
40 Retirement Law. All laws governing the investment of the

1 retirement fund, and the organization, procedures, and
2 administrative duties and responsibilities of the board shall be
3 applicable to the board in its administration of the California Public
4 Employees' Pension Reform Act of 2013, to the extent these laws
5 are not in conflict with, or are not inconsistent with, the act. If the
6 board determines that there is a conflict between the provisions of
7 the California Public Employees' Pension Reform Act of 2013
8 and the Public Employees' Retirement Law, the provisions of the
9 California Public Employees' Pension Reform Act of 2013 shall
10 control.

11 (c) Nothing in this section shall be construed to amend,
12 supersede, limit, or extend the application of the provisions of the
13 California Public Employees' Pension Reform Act of 2013.

14 ~~SEC. 3.~~

15 *SEC. 4.* Section 20636 of the Government Code is amended
16 to read:

17 20636. (a) "Compensation earnable" by a member means the
18 payrate and special compensation of the member, as defined by
19 subdivisions (b), (c), and (g), and as limited by Section 21752.5.

20 (b) (1) "Payrate" means the normal monthly rate of pay or base
21 pay of the member paid in cash to similarly situated members of
22 the same group or class of employment for services rendered on
23 a full-time basis during normal working hours, pursuant to publicly
24 available pay schedules. "Payrate," for a member who is not in a
25 group or class, means the monthly rate of pay or base pay of the
26 member, paid in cash and pursuant to publicly available pay
27 schedules, for services rendered on a full-time basis during normal
28 working hours, subject to the limitations of paragraph (2) of
29 subdivision (e).

30 (2) "Payrate" shall include an amount deducted from a member's
31 salary for any of the following:

32 (A) Participation in a deferred compensation plan.

33 (B) Payment for participation in a retirement plan that meets
34 the requirements of Section 401(k) of Title 26 of the United States
35 Code.

36 (C) Payment into a money purchase pension plan and trust that
37 meets the requirements of Section 401(a) of Title 26 of the United
38 States Code.

39 (D) Participation in a flexible benefits program.

1 (3) The computation for a leave without pay of a member shall
2 be based on the compensation earnable by him or her at the
3 beginning of the absence.

4 (4) The computation for time prior to entering state service shall
5 be based on the compensation earnable by him or her in the position
6 first held by him or her in state service.

7 (c) (1) Special compensation of a member includes a payment
8 received for special skills, knowledge, abilities, work assignment,
9 workdays or hours, or other work conditions.

10 (2) Special compensation shall be limited to that which is
11 received by a member pursuant to a labor policy or agreement or
12 as otherwise required by state or federal law, to similarly situated
13 members of a group or class of employment that is in addition to
14 payrate. If an individual is not part of a group or class, special
15 compensation shall be limited to that which the board determines
16 is received by similarly situated members in the closest related
17 group or class that is in addition to payrate, subject to the
18 limitations of paragraph (2) of subdivision (e).

19 (3) Special compensation shall be for services rendered during
20 normal working hours and, when reported to the board, the
21 employer shall identify the pay period in which the special
22 compensation was earned.

23 (4) Special compensation may include the full monetary value
24 of normal contributions paid to the board by the employer, on
25 behalf of the member and pursuant to Section 20691, if the
26 employer's labor policy or agreement specifically provides for the
27 inclusion of the normal contribution payment in compensation
28 earnable.

29 (5) The monetary value of a service or noncash advantage
30 furnished by the employer to the member, except as expressly and
31 specifically provided in this part, is not special compensation unless
32 regulations promulgated by the board specifically determine that
33 value to be "special compensation."

34 (6) The board shall promulgate regulations that delineate more
35 specifically and exclusively what constitutes "special
36 compensation" as used in this section. A uniform allowance, the
37 monetary value of employer-provided uniforms, holiday pay, and
38 premium pay for hours worked within the normally scheduled or
39 regular working hours that are in excess of the statutory maximum
40 workweek or work period applicable to the employee under Section

1 201-et seq. and following of Title 29 of the United States Code
2 shall be included as special compensation and appropriately defined
3 in those regulations.

4 (7) Special compensation does not include any of the following:

5 (A) Final settlement pay.

6 (B) Payments made for additional services rendered outside of
7 normal working hours, whether paid in lump sum or otherwise.

8 (C) Other payments the board has not affirmatively determined
9 to be special compensation.

10 (d) Notwithstanding any other provision of law, payrate and
11 special compensation schedules, ordinances, or similar documents
12 shall be public records available for public scrutiny.

13 (e) (1) As used in this part, “group or class of employment”
14 means a number of employees considered together because they
15 share similarities in job duties, work location, collective bargaining
16 unit, or other logical work-related grouping. One employee may
17 not be considered a group or class.

18 (2) Increases in compensation earnable granted to an employee
19 who is not in a group or class shall be limited during the final
20 compensation period applicable to the employees, as well as the
21 two years immediately preceding the final compensation period,
22 to the average increase in compensation earnable during the same
23 period reported by the employer for all employees who are in the
24 same membership classification, except as may otherwise be
25 determined pursuant to regulations adopted by the board that
26 establish reasonable standards for granting exceptions.

27 (f) As used in this part, “final settlement pay” means pay or
28 cash conversions of employee benefits that are in excess of
29 compensation earnable, that are granted or awarded to a member
30 in connection with, or in anticipation of, a separation from
31 employment. The board shall promulgate regulations that delineate
32 more specifically what constitutes final settlement pay.

33 (g) (1) Notwithstanding subdivision (a), “compensation
34 earnable” for state members means the average monthly
35 compensation, as determined by the board, upon the basis of the
36 average time put in by members in the same group or class of
37 employment and at the same rate of pay, and is composed of the
38 payrate and special compensation of the member. The computation
39 for an absence of a member shall be based on the compensation
40 earnable by him or her at the beginning of the absence and for time

1 prior to entering state service shall be based on the compensation
2 earnable by him or her in the position first held by him or her in
3 that state service.

4 (2) Notwithstanding subdivision (b), “payrate” for state members
5 means the average monthly remuneration paid in cash out of funds
6 paid by the employer to similarly situated members of the same
7 group or class of employment, in payment for the member’s
8 services or for time during which the member is excused from
9 work because of holidays, sick leave, vacation, compensating time
10 off, or leave of absence. “Payrate” for state members shall include:

11 (A) An amount deducted from a member’s salary for any of the
12 following:

13 (i) Participation in a deferred compensation plan established
14 pursuant to Chapter 4 (commencing with Section 19993) of Part
15 2.6.

16 (ii) Payment for participation in a retirement plan that meets
17 the requirements of Section 401(k) of Title 26 of the United States
18 Code.

19 (iii) Payment into a money purchase pension plan and trust that
20 meets the requirements of Section 401(a) of Title 26 of the United
21 States Code.

22 (iv) Participation in a flexible benefits program.

23 (B) A payment in cash by the member’s employer to one other
24 than an employee for the purpose of purchasing an annuity contract
25 for a member under an annuity plan that meets the requirements
26 of Section 403(b) of Title 26 of the United States Code.

27 (C) Employer “pick up” of member contributions that meets
28 the requirements of Section 414(h)(2) of Title 26 of the United
29 States Code.

30 (D) Disability or workers’ compensation payments to safety
31 members in accordance with Section 4800 of the Labor Code.

32 (E) Temporary industrial disability payments pursuant to Article
33 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.

34 (F) Other payments the board may determine to be within
35 “payrate.”

36 (3) Notwithstanding subdivision (c), “special compensation”
37 for state members shall mean all of the following:

38 (A) The monetary value, as determined by the board, of living
39 quarters, board, lodging, fuel, laundry, and other advantages of

1 any nature furnished to a member by his or her employer in
2 payment for the member's services.

3 (B) Compensation for performing normally required duties,
4 such as holiday pay, bonuses (for duties performed on regular work
5 shift), educational incentive pay, maintenance and noncash
6 payments, out-of-class pay, marksmanship pay, hazard pay,
7 motorcycle pay, paramedic pay, emergency medical technician
8 pay, Peace Officer Standards and Training (POST) certificate pay,
9 and split shift differential.

10 (C) Compensation for uniforms, except as provided in Section
11 20632.

12 (D) Other payments the board may determine to be within
13 "special compensation."

14 (4) "Payrate" and "special compensation" for state members do
15 not include any of the following:

16 (A) The provision by the state employer of a medical or hospital
17 service or care plan or insurance plan for its employees (other than
18 the purchase of annuity contracts as described below in this
19 subdivision), a contribution by the employer to meet the premium
20 or charge for that plan, or a payment into a private fund to provide
21 health and welfare benefits for employees.

22 (B) A payment by the state employer of the employee portion
23 of taxes imposed by the Federal Insurance Contribution Act.

24 (C) Amounts not available for payment of salaries and that are
25 applied by the employer for the purchase of annuity contracts
26 including those that meet the requirements of Section 403(b) of
27 Title 26 of the United States Code.

28 (D) Benefits paid pursuant to Article 5 (commencing with
29 Section 19878) of Chapter 2.5 of Part 2.6.

30 (E) Employer payments that are to be credited as employee
31 contributions for benefits provided by this system, or employer
32 payments that are to be credited to employee accounts in deferred
33 compensation plans. The amounts deducted from a member's
34 wages for participation in a deferred compensation plan may not
35 be considered to be "employer payments."

36 (F) Payments for unused vacation, annual leave, personal leave,
37 sick leave, or compensating time off, whether paid in lump sum
38 or otherwise.

39 (G) Final settlement pay.

1 (H) Payments for overtime, including pay in lieu of vacation or
2 holiday.

3 (I) Compensation for additional services outside regular duties,
4 such as standby pay, callback pay, court duty, allowance for
5 automobiles, and bonuses for duties performed after the member's
6 regular work shift.

7 (J) Amounts not available for payment of salaries and that are
8 applied by the employer for any of the following:

9 (i) The purchase of a retirement plan that meets the requirements
10 of Section 401(k) of Title 26 of the United States Code.

11 (ii) Payment into a money purchase pension plan and trust that
12 meets the requirements of Section 401(a) of Title 26 of the United
13 States Code.

14 (K) Payments made by the employer to or on behalf of its
15 employees who have elected to be covered by a flexible benefits
16 program, where those payments reflect amounts that exceed the
17 employee's salary.

18 (L) Other payments the board may determine are not "payrate"
19 or "special compensation."

20 (5) If the provisions of this subdivision, including the board's
21 determinations pursuant to subparagraph (F) of paragraph (2) and
22 subparagraph (D) of paragraph (3), are in conflict with the
23 provisions of a memorandum of understanding reached pursuant
24 to Section 3517.5 or 3560, the memorandum of understanding
25 shall be controlling without further legislative action, except that
26 if the provisions of a memorandum of understanding require the
27 expenditure of funds, those provisions may not become effective
28 unless approved by the Legislature in the annual Budget Act. No
29 memorandum of understanding reached pursuant to Section 3517.5
30 or 3560 may exclude from the definition of either "payrate" or
31 "special compensation" a member's base salary payments or
32 payments for time during which the member is excused from work
33 because of holidays, sick leave, vacation, compensating time off,
34 or leave of absence. If items of compensation earnable are included
35 by memorandum of understanding as "payrate" or "special
36 compensation" for retirement purposes for represented and higher
37 education employees pursuant to this paragraph, the Department
38 of Human Resources or the Trustees of the California State
39 University shall obtain approval from the board for that inclusion.

(6) (A) Subparagraph (B) of paragraph (3) prescribes that compensation earnable includes compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, and split shift differential; and includes compensation for uniforms, except as provided in Section 20632; and subparagraph (I) of paragraph (4) excludes from compensation earnable compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, and bonuses for duties performed after regular work shift.

(B) Notwithstanding subparagraph (A), the Department of Human Resources shall determine which payments and allowances that are paid by the state employer shall be considered compensation for retirement purposes for an employee who either is excluded from the definition of state employee in Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(C) Notwithstanding subparagraph (A), the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees shall be considered compensation for retirement purposes for a managerial employee, as defined in Section 3562, or supervisory employee as defined in Section 3580.3.

(h) This section shall not apply to a new member, as defined in Section 7522.04.

~~SEC. 4.~~

SEC. 5. Section 20636.1 of the Government Code is amended to read:

20636.1. (a) Notwithstanding Section 20636, and Section 45102 of the Education Code, “compensation earnable” by a school member means the payrate and special compensation of the member, as defined by subdivisions (b) and (c), and as limited by Section 21752.5.

(b) (1) “Payrate” means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. For purposes of

1 this part, for classified members, full-time employment is 40 hours
2 per week, and payments for services rendered, not to exceed 40
3 hours per week, shall be reported as compensation earnable for all
4 months of the year in which work is performed. "Payrate," for a
5 member who is not in a group or class, means the monthly rate of
6 pay or base pay of the member, paid in cash and pursuant to
7 publicly available pay schedules, for services rendered on a
8 full-time basis during normal working hours, subject to the
9 limitations of paragraph (2) of subdivision (e).

10 (A) "Payrate" shall include an amount deducted from a
11 member's salary for any of the following:

12 (i) Participation in a deferred compensation plan.

13 (ii) Payment for participation in a retirement plan that meets
14 the requirements of Section 401(k) or 403(b) of Title 26 of the
15 United States Code.

16 (iii) Payment into a money purchase pension plan and trust that
17 meets the requirements of Section 401(a) of Title 26 of the United
18 States Code.

19 (iv) Participation in a flexible benefits program.

20 (B) For the purposes of this section, "classified members" shall
21 mean members who retain membership under this system while
22 employed with a school employer in positions not subject to
23 coverage under the Defined Benefit Program under the State
24 Teachers' Retirement System.

25 (C) For the purposes of this section, and Sections 20962 and
26 20966, "certificated members" shall mean members who retain
27 membership under this system while employed in positions subject
28 to coverage under the Defined Benefit Program under the State
29 Teachers' Retirement System.

30 (2) The computation for any leave without pay of a member
31 shall be based on the compensation earnable by him or her at the
32 beginning of the absence.

33 (3) The computation for time prior to entering state service shall
34 be based on the compensation earnable by him or her in the position
35 first held by him or her in state service.

36 (c) (1) Special compensation of a school member includes any
37 payment received for special skills, knowledge, abilities, work
38 assignment, workdays or hours, or other work conditions.

39 (2) Special compensation shall be limited to that which is
40 received by a member pursuant to a labor policy or agreement or

1 as otherwise required by state or federal law, to similarly situated
2 members of a group or class of employment that is in addition to
3 payrate. If an individual is not part of a group or class, special
4 compensation shall be limited to that which the board determines
5 is received by similarly situated members in the closest related
6 group or class that is in addition to payrate, subject to the
7 limitations of paragraph (2) of subdivision (e).

8 (3) Special compensation shall be for services rendered during
9 normal working hours and, when reported to the board, the
10 employer shall identify the pay period in which the special
11 compensation was earned.

12 (4) Special compensation may include the full monetary value
13 of normal contributions paid to the board by the employer, on
14 behalf of the member and pursuant to Section 20691, provided
15 that the employer's labor policy or agreement specifically provides
16 for the inclusion of the normal contribution payment in
17 compensation earnable.

18 (5) The monetary value of any service or noncash advantage
19 furnished by the employer to the member, except as expressly and
20 specifically provided in this part, shall not be special compensation
21 unless regulations promulgated by the board specifically determine
22 that value to be "special compensation."

23 (6) The board shall promulgate regulations that delineate more
24 specifically and exclusively what constitutes "special
25 compensation" as used in this section. A uniform allowance, the
26 monetary value of employer-provided uniforms, holiday pay, and
27 premium pay for hours worked within the normally scheduled or
28 regular working hours that are in excess of the statutory maximum
29 workweek or work period applicable to the employee under Section
30 ~~201-et seq.~~ *and following* of Title 29 of the United States Code
31 shall be included as special compensation and appropriately defined
32 in those regulations.

33 (7) Special compensation does not include any of the following:

34 (A) Final settlement pay.

35 (B) Payments made for additional services rendered outside of
36 normal working hours, whether paid in lump sum or otherwise.

37 (C) Any other payments the board has not affirmatively
38 determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e) (1) As used in this part, “group or class of employment” means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping. Under no circumstances shall one employee be considered a group or class.

(2) Increases in compensation earnable granted to any employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(f) As used in this part, “final settlement pay” means any pay or cash conversions of employee benefits that are in excess of compensation earnable, that are granted or awarded to a member in connection with or in anticipation of a separation from employment. The board shall promulgate regulations that delineate more specifically what constitutes final settlement pay.

(g) This section shall not apply to a new member, as defined in Section 7522.04.

~~SEC. 5:~~

SEC. 6. Section 20677.4 of the Government Code is amended to read:

20677.4. (a) (1) The normal rate of contribution for a state miscellaneous or state industrial member whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars (\$317) per month paid to that member for service rendered on or after July 1, 1976.

(2) The normal rate of contribution for a state miscellaneous or state industrial member, who has elected to be subject to Section 21353.5 and whose service is not included in the federal system, shall be 6 percent of the member’s compensation.

(3) The normal rate of contribution as established under this subdivision for a member whose service is included in the federal

1 system, and whose service retirement allowance is reduced under
2 Section 21354.1, because of that inclusion, shall be reduced by
3 one-third as applied to compensation not exceeding four hundred
4 dollars (\$400) per month for service after the date of execution of
5 the agreement including service in the federal system and prior to
6 termination of the agreement with respect to the coverage group
7 to which he or she belongs.

8 (b) The normal rate of contribution for a state miscellaneous or
9 state industrial member whose service has been included in the
10 federal system shall be 5 percent of compensation in excess of five
11 hundred thirteen dollars (\$513) per month paid that member for
12 service rendered on or after July 1, 1976.

13 (c) The normal rate of contribution for a state miscellaneous or
14 state industrial member who is subject to Section 21076, 21076.5,
15 or 21077 shall be determined in the manner described in Section
16 20683.2.

17 (d) A member who elected to become subject to Section 21353
18 solely for service rendered on or after the effective date of the
19 election, as authorized by subdivision (c) of Section 21070 during
20 the period between November 1, 1988, and October 31, 1989, is
21 not required to make the contributions specified in Section 21073.

22 (e) A member who elects to become subject to Section 21354.1,
23 as applicable, shall contribute at the rate specified in paragraph
24 (1) of subdivision (a) or paragraph (1) of subdivision (b), as
25 determined by the member's status with the federal system, and
26 the rate shall be applied from the first of the month following the
27 date of the election. A member who makes the election shall also
28 contribute for service prior to the date the contribution rate was
29 applied, in the manner specified in Section 21073 or 21073.1, as
30 applicable.

31 (f) If the provisions of this section are in conflict with the
32 provisions of a memorandum of understanding reached pursuant
33 to Section 3517.5, the memorandum of understanding shall be
34 controlling without further legislative action, except that if the
35 provisions of a memorandum of understanding require the
36 expenditure of funds, the provisions shall not become effective
37 unless and until approved by the Legislature in the annual Budget
38 Act.

39 (g) The Director of Human Resources may establish the normal
40 rate of contribution for a state employee who is excepted from the

definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

~~SEC. 6.~~

SEC. 7. Section 20683.2 of the Government Code is amended to read:

20683.2. Equal sharing of normal costs between the state employer and public employees shall be the standard. It shall be the standard that employees pay at least 50 percent of normal costs and that employers not pay any of the required employee contribution. Equal sharing of normal costs is currently the standard for most state employees.

(a) Notwithstanding any other section of this code, or other provision of law in conflict with this section, except as provided in Section 7522.30, normal contribution rates for defined benefit plans for state employees of public employers as defined in paragraph (1) of subdivision (i) of Section 7522.04, excluding the California State University, shall be determined as follows:

(1) Normal cost contribution rates shall increase as follows:

(A) The contribution rate for ~~State Peace Officer/Firefighter~~ *state peace officer/firefighter* members in State Bargaining Unit 6 and for ~~State Safety~~ *state safety* members in State Bargaining Units 1, 3, 4, 7, 9, 10, 11, 14, 15, 17, 20, and 21 will increase by 1.0 percentage point on July 1, 2013, and will increase by an additional 1.0 percentage point on July 1, 2014.

(B) The contribution rate for ~~State Peace Officer/Firefighter~~ *state peace officer/firefighter* members in State Bargaining Units 7 and 8 will increase by 1.5 percentage points on July 1, 2013, and will increase by an additional 1.5 percentage points on July 1, 2014.

(C) The contribution rate for state industrial members in State Bargaining Units 1, 3, 4, 6, 9, 10, 11, 14, 15, 17, and 20 will increase by 1.0 percentage point on July 1, 2013.

(D) The contribution rate for state miscellaneous and industrial members that have elected the Second Tier benefit formula will

1 increase by 1.5 percentage points annually starting July 1, 2013,
2 until the contribution rate is equal to at least 50 percent of normal
3 costs rounded up to the nearest one-fourth of 1 percent. The final
4 annual increase in the contribution rate shall be adjusted to less
5 than 1.5 percent as appropriate.

6 (E) The contribution rate for ~~State Safety~~ *state safety* members
7 in State Bargaining Unit 2 and state miscellaneous members in
8 State Bargaining Unit 5 will increase by 1.0 percentage point on
9 July 1, 2013.

10 (F) The contribution rate for ~~Patrol~~ *patrol* members in State
11 Bargaining Unit 5 will increase by 1.5 percentage points on July
12 1, 2013.

13 (2) Consistent with paragraph (1), the normal rate of contribution
14 shall be adjusted accordingly for related state employees who are
15 exempted from the definition of “state employee,” or officers and
16 employees of the executive, legislative, or judicial branch of state
17 government who are not members of the civil service.

18 (b) Calculation of employee contribution rate increases pursuant
19 to this section shall be based upon compensation calculations
20 established pursuant to Sections 20671 to 20694, inclusive.

21 (c) In addition to the actuarially required contribution, savings
22 realized by the state employer as a result of the employee
23 contribution rate increases required by this section shall be
24 allocated to any unfunded liability, subject to appropriation in the
25 annual Budget Act.

26 ~~SEC. 7.~~

27 *SEC. 8.* Section 20691 of the Government Code is amended
28 to read:

29 20691. (a) (1) Except as provided in subdivision (b),
30 notwithstanding any other law, a contracting agency or school
31 employer may pay all or a portion of the normal contributions
32 required to be paid by a member. Where the member is included
33 in a group or class of employment, the payment shall be for all
34 members in the group or class of employment. If an individual is
35 not part of a group or class, the payment shall be limited to the
36 amount that the board determines is payable to similarly situated
37 members in the closest related group or class, subject to the
38 limitations of paragraph (2) of subdivision (e) of Section 20636.
39 The payments shall be reported simply as normal contributions
40 and shall be credited to member accounts.

(2) Nothing in this subdivision shall be construed to limit the authority of a contracting agency or school employer to periodically increase, reduce, or eliminate the payment by the contracting agency or school employer of all or a portion of the normal contributions required to be paid by members, as authorized by this section.

(b) Notwithstanding subdivision (a), employers shall not pay a portion of the normal contributions for members who are subject to subdivision (c) of Section 7522.30, except where authorized pursuant to subdivision (f) of Section 7522.30.

SEC. 9. Section 20692 of the Government Code is amended to read:

20692. (a) Where a contracting agency employer or a school employer has elected to pay all or a portion of the normal contributions of members of a group or class of employment pursuant to Section 20691, the employer may, pursuant to a labor policy or agreement, stop paying those contributions during the final compensation period applicable to the members and, instead, increase the payrate of the members by an amount equal to the normal contributions paid by the employer on behalf of the employees in the pay period immediately prior to the final compensation period or increase the payrate of the members by an amount established by a labor policy or agreement in existence and in effect on June 30, 1993. That amount shall not exceed the amount of the normal member contributions that are required to be paid by the members.

(b) This section shall not apply to any contracting agency or to any school employer unless and until the contracting agency or the school employer elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required. In the case of contracts made after July 1, 1994, the section shall not apply unless incorporated by express provision in the contract. However, no school employer may act pursuant to this section unless and until the board approves a request for the amendment of the contract of a school employer to authorize termination of the payment. A school employer shall not submit a request for a contract amendment unless there is on file a request to terminate that payment from the county superintendent of schools office and each school district, community college district,

1 and other school entity within the jurisdiction of that school
2 employer.

3 (c) Before adopting this provision, the governing body of a
4 contracting agency or school employer shall, with timely public
5 notice, place the consideration of this section on the agendas of
6 two consecutive public meetings of the governing body, at which
7 time, full disclosure shall be made of the nature of the benefit, the
8 additional employer contributions, and the funding therefor. Only
9 after the second of these public meetings may the governing body
10 adopt this section. The employer shall notify the board of the
11 employer's compliance with this subdivision at the time of the
12 governing body's application to adopt this section.

13 (d) Persons hired after the effective date of an employer's
14 contract amendment to include this section shall be informed by
15 the employer of how this benefit relates to their total compensation
16 and benefit package.

17 (e) The additional employer contributions required under this
18 section shall be computed as a level percentage of member
19 compensation. The additional contribution rate required at the time
20 this section is added to a contract shall not be less than the sum of
21 (1) the actuarial normal cost, plus (2) in the case of a contract
22 amendment, the additional contribution required to amortize the
23 increase in accrued liability attributable to the benefit elected under
24 this section over the unfunded actuarial liability period currently
25 in the agency's contract, commencing from the date this section
26 becomes effective in the agency's contract.

27 (f) For the purposes of this section, all contributions, liabilities,
28 actuarial interest rates, and other valuation factors necessary to
29 calculate the employer's contribution shall be determined on the
30 basis of actuarial assumptions and methods which, in combination,
31 provide the board's best estimate of anticipated experience under
32 the system. The board has the exclusive power and duty to make
33 these determinations.

34 (g) Within 30 days of notification from the board to the
35 contracting agency or school employer of the additional employer
36 contributions required pursuant to this section, the contracting
37 agency or school employer, or a recognized employee organization,
38 or both, may file with the board a request for a review of the
39 determination of the calculation of the additional employer
40 contributions. The board shall promulgate regulations governing

1 the conduct of the review, that shall include the means by which
2 an employer or recognized employee organization may submit
3 independent actuarial evidence regarding the additional
4 contribution required by this section. The board shall make the
5 final determination on the additional employer contributions needed
6 to fund this contract amendment.

7 *(h) This section shall not apply to a new member as defined in*
8 *Section 7522.04.*

9 ~~SEC. 8.~~

10 *SEC. 10.* Section 20693 of the Government Code is amended
11 to read:

12 20693. (a) Except as provided in subdivision (b),
13 notwithstanding any other law, the state or the Regents of the
14 University of California may pay all or a portion of the normal
15 contributions required to be paid by a state member. The payments
16 shall be reported as employer-paid normal contributions and shall
17 be credited to member accounts. Nothing in this subdivision shall
18 be construed to limit the authority of the state to periodically
19 increase, reduce, or eliminate the payment by the state of all or a
20 portion of the normal contributions required to be paid by a state
21 member, as authorized by this section.

22 This section shall be subject to any applicable
23 collective-bargaining laws.

24 (b) Notwithstanding subdivision (a), employers shall not pay a
25 portion of the normal contributions for members who are subject
26 to subdivision (c) of Section 7522.30, except where authorized
27 pursuant to subdivision (f) of Section 7522.30.

28 ~~SEC. 9.~~

29 *SEC. 11.* Section 20731 of the Government Code is amended
30 to read:

31 20731. (a) Notwithstanding any other provision of this part,
32 a member who is credited with less than the years of service
33 specified in Article 1 (commencing with Section 21060) of Chapter
34 12 who enters employment as a member of a public retirement
35 system supported, in whole or in part, by state funds, including
36 the University of California Retirement System, or as a member
37 of a county retirement system, within six months of leaving state
38 service, shall have the right to elect to leave accumulated
39 contributions on deposit in the retirement fund. Failure to make
40 an election to withdraw accumulated contributions shall be deemed

1 an election to leave accumulated contributions on deposit in the
2 retirement fund. This section shall also apply to a member who is
3 subject to Section 21076 or 21076.5.

4 (b) (1) An election to allow accumulated contributions to remain
5 in the retirement fund may be revoked by the member at any time,
6 except any of the following:

7 (A) While the member is employed in state service in a position
8 in which the member is not excluded from membership with respect
9 to that service.

10 (B) While the member is in service as a member of a public
11 retirement system supported, in whole or in part, by state funds,
12 including the University of California Retirement System.

13 (C) While the member is in service, entered within six months
14 after discontinuing state service, as a member of a county
15 retirement system.

16 (2) All accumulated contributions in a member's account up to
17 the time of revocation shall be distributed in accordance with an
18 election pursuant to Section 20735.

19 (3) A member who is permanently separated from all service
20 covered by the system, who is not subject to paragraph (1), and
21 who attains 70 years of age shall be provided with an election to
22 withdraw contributions or, if vested, an election to either apply
23 for service retirement or to withdraw contributions. Failure to apply
24 for service retirement or to make an election to withdraw
25 contributions within 90 days shall be deemed an election to
26 withdraw contributions. If the person fails to either apply for
27 service retirement or elect to withdraw contributions, or cannot,
28 with reasonable diligence, be located, the accumulated
29 contributions shall be distributed in accordance with Section 21500.

30 (c) A member whose membership continues under this section
31 is subject to the same age and disability requirements as apply to
32 other members for service or for disability retirement. After the
33 qualification of the member for retirement by reason of age, which
34 shall be the lowest age applicable to any membership category in
35 which the member has credited service, or disability, the member
36 shall be entitled to receive a retirement allowance based upon the
37 amount of the member's accumulated contributions and service
38 standing to the member's credit at the time of retirement and on
39 the employer contributions held for the member and calculated in
40 the same manner as for other members, except that the provisions

1 in this part for minimum service and disability retirement
2 allowances shall not apply to the member, unless the member
3 meets the minimum service requirements. If a basic death benefit
4 becomes payable under Article 1 (commencing with Section
5 21490), Article 2 (commencing with Section 21530), and Article
6 5 (commencing with Section 21620) of Chapter 14 because of
7 death before retirement of a member, the average annual
8 compensation earnable in the year preceding the date of termination
9 of that service, rather than in the year preceding death, shall be
10 used in computing the benefit under Articles 1, 2, and 5 of Chapter
11 14.

12 The provisions of this section, as it read prior to June 21, 1971,
13 shall continue with respect to a member whose membership
14 continued under this section on that date.

15 ~~SEC. 10.~~

16 *SEC. 12.* Section 20737 of the Government Code is amended
17 to read:

18 20737. The account of a member who elects to be subject to
19 Section 21076 or 21076.5 shall be paid current year interest through
20 the effective date of that election for service rendered as a state
21 miscellaneous or state industrial member. Interest subsequent to
22 the effective date of that election shall accrue at a rate determined
23 by the board. The member shall not receive his or her accumulated
24 contributions plus interest until the time of retirement or upon
25 request after permanent separation from state service. Interest shall
26 be paid through the day prior to retirement or through the date on
27 which the claim is filed with the Controller. This section does not
28 apply to a member who elects to be subject to Section 21077.

29 ~~SEC. 11.~~

30 *SEC. 13.* Section 20891 of the Government Code is amended
31 to read:

32 20891. Section 20066 and subdivisions (a) and (b) of Section
33 20068 shall not apply to a state miscellaneous or state industrial
34 member subject to Section 21076, 21076.5, or 21077 who becomes
35 a patrol member, a state safety member, or a state peace
36 officer/firefighter member as a result of an amendment to this part
37 defining those members, or is reclassified as a state peace
38 officer/firefighter member pursuant to Sections 20395 or 20398,
39 unless the member elects to: (a) deposit in the retirement fund an
40 amount equal to any accumulated contributions that he or she

1 withdrew pursuant to Section 20737, plus an amount equal to the
2 interest which would have been credited to his or her account, to
3 the date of completion of payments, had those contributions not
4 been withdrawn; ~~and~~, and (b) deposit in the retirement fund the
5 amount that he or she would have contributed had he or she not
6 been subject to subdivision (c) of Section 20677, plus an amount
7 equal to the interest, to the date of completion of payments, which
8 would have been credited to those contributions had he or she been
9 subject to subdivision (a) or (b) of Section 20677.

10 *SEC. 14. Section 20909 of the Government Code is amended*
11 *to read:*

12 20909. (a) A member who has at least five years of credited
13 state service, may elect, by written notice filed with the board, to
14 make contributions pursuant to this section and receive not less
15 than one year, nor more than five years, in one-year increments,
16 of additional retirement service credit in the retirement system.

17 (b) A member may elect to receive this additional retirement
18 service credit at any time prior to retirement by making the
19 contributions as specified in Sections 21050 and 21052. A member
20 may not elect additional retirement service credit under this section
21 more than once.

22 (c) For purposes of this section, “additional retirement service
23 credit” means time that does not qualify as public service, military
24 service, leave of absence, or any other time recognized for service
25 credit by the retirement system.

26 (d) Additional retirement service credit elected pursuant to this
27 section may not be counted to meet the minimum qualifications
28 for service or disability retirement or for health care benefits, or
29 any other benefits based upon years of service credited to the
30 member.

31 (e) This section only applies to the following members:

32 (1) A member while he or she is employed in state service at
33 the time of the additional retirement service credit election.

34 (2) A member of the system defined in Section 20324.

35 (f) For purposes of this section, “state service” means service
36 as defined in Section 20069.

37 (g) *This section shall apply only to an application to purchase*
38 *additional retirement credit that was received by the system prior*
39 *to January 1, 2013, that is subsequently approved by the system.*

1 ~~SEC. 12.~~

2 *SEC. 15.* Section 21010 of the Government Code is amended
3 to read:

4 21010. Unless otherwise provided in this article, a member
5 electing to receive service credit for time during which he or she
6 was absent from state service shall contribute in a lump sum or by
7 installments over that period and subject to such minimum
8 payments as may be prescribed by regulations of the board, an
9 amount equal to (a) the contributions he or she would have made
10 to this system for the period for which current service credit is
11 granted, assuming that the rate of contribution under his or her
12 employer's formula at the rate age applicable to him or her at the
13 beginning of his or her first subsequent period of service in
14 membership and his or her compensation earnable on that date had
15 applied to him or her during the period for which credit is granted,
16 plus (b) those added contributions as may be specially required
17 under this article as a condition for crediting a particular absence,
18 plus (c) the interest that would have accrued to those contributions
19 if they had been on deposit at the beginning date of his or her first
20 subsequent period of service in membership, from that date until
21 the date of completion of payments. The beginning date of the first
22 subsequent period of service for purposes of computation of
23 contributions and interest shall be deemed to be the end of the
24 period of service credited for a member who has no subsequent
25 return to service. For a member who is subject to Section 21076
26 or 21076.5, and Section 21077, the service and contribution rate
27 to be used for purposes of computation shall be deemed to be the
28 service and contribution rate that would have been used had the
29 member not been subject to Section 21076 or 21076.5, and Section
30 21077.

31 Service shall be credited as current or prior service, or both, as
32 it would be credited if the member had been in state service during
33 his or her absence. All contributions of a member under this article
34 shall be considered to be and shall be administered as normal
35 contributions.

36 ~~SEC. 13.~~

37 *SEC. 16.* Section 21011 of the Government Code is amended
38 to read:

39 21011. Notwithstanding Section 21010, for a member electing
40 to receive service credit for time during which he or she was absent

1 from state service who is subject to Section 21076 or 21076.5, and
2 Section 21077, the contribution rate to be used for the purposes
3 of computation shall be deemed to be the contribution rate that
4 would have been used had the member not been subject to Section
5 21076 or 21076.5, and Section 21077.

6 ~~SEC. 14.~~

7 *SEC. 17.* Section 21033 of the Government Code is amended
8 to read:

9 21033. A member electing to receive credit for public service
10 shall contribute in a lump sum or by installment payments over
11 that period and subject to minimum payments as may be prescribed
12 by regulations of the board an amount equal to (a) the contributions
13 he or she would have made to this system for the period for which
14 current service credit is granted, assuming that the rate of
15 contribution under his or her employer's formula at the rate age
16 applicable to him or her at the beginning of his or her first
17 subsequent period of service in membership and his or her
18 compensation earnable on that date had applied to him or her
19 during the period for which credit is granted, plus (b) the added
20 contribution that may be specially required under this article as a
21 condition for crediting particular public service, plus (c) the interest
22 which would have accrued to those contributions if they had been
23 deposited at the beginning date of his or her first subsequent period
24 of service in membership, from that date until the date of
25 completion of payments, and (d) if he or she elects to contribute
26 in other than one sum, interest on the unpaid balance of the amount
27 payable to the retirement fund, beginning on the date of the election
28 to receive credit. The beginning date of the first subsequent period
29 of service for purposes of computation of contribution and interest
30 shall be deemed to be the end of the period of service credited for
31 a member who has no subsequent return to service. For a member
32 who is subject to Section 21076 or 21076.5, and Section 21077,
33 the service and contribution rate to be used for purposes of
34 computation shall be deemed to be the service and contribution
35 rate that would have been used had the member not been subject
36 to Section 21076 or 21076.5, and Section 21077.

37 ~~SEC. 15.~~

38 *SEC. 18.* Section 21052 of the Government Code is amended
39 to read:

21052. A member or retired former employee who elects to receive service credit subject to this section shall contribute, in accordance with Section 21050, an amount equal to the increase in employer liability, using the payrate and other factors affecting liability on the date of the request for costing of the service credit. The methodology for calculating the amount of the contribution shall be determined by the chief actuary and approved by the board. A member or retired former employee electing to receive service credit for service subject to Section 21076, 21076.5, or 21077 shall pay the contributions as described.

SEC. 19. Section 21060 of the Government Code is amended to read:

21060. (a) A member shall be retired for service upon his or her written application to the board if he or she has attained age 50 and is credited with five years of state service, except as provided in Sections 7522.20, 21061, 21062, and 21074.

(b) For purposes of this section, “state service” includes service to the state for which the member, pursuant to Section 20281.5, did not receive credit.

(c) *For a member who has accrued service credit subject to the benefit formula in Section 7522.20 and who has also accrued service credit, within this retirement system, subject to a benefit formula with a minimum retirement age earlier than 52 years of age, the member shall receive an actuarially reduced equivalent benefit, upon retirement, for service subject to Section 7522.20, if the member retires before 52 years of age but at, or after, the minimum age of retirement permitted for other service within this retirement system and the member is credited with at least five years of service.*

~~SEC. 16.~~

SEC. 20. Section 21070.5 of the Government Code is amended to read:

21070.5. (a) Notwithstanding any other provision of this article, a person who, on or after January 1, 2000, becomes a state miscellaneous or state industrial member of the system because the person (1) is first employed by the state, (2) returns to employment with the state from a break in service of more than 90 days, or (3) returns to employment with the state after ceasing to be a member pursuant to Section 20340 or 21075, shall be subject to the benefits provided by Section 21354.1, unless the

1 person elects within 180 days of membership as a state
2 miscellaneous or state industrial member to be subject to the
3 Second Tier benefits provided for in Section 21076 or 21076.5,
4 as applicable. This section shall only apply to state miscellaneous
5 and state industrial members who are (1) excluded from the
6 definition of state employee in subdivision (c) of Section 3513,
7 (2) employed by the executive branch of government and are not
8 members of the civil service, or (3) included in the definition of
9 state employee in subdivision (c) of Section 3513.

10 (b) The effective date of the election shall be the first day of the
11 month following the date the election is received by the system
12 and shall be applicable to state service rendered on and after that
13 date. Any election filed with the board pursuant to this section
14 shall also be signed by the spouse of the member.

15 (c) A member who makes an election authorized by this section
16 shall not be precluded from making a subsequent election pursuant
17 to Section 21073.7 to be subject to the benefits provided by Section
18 21354.1.

19 (d) Operation and application of this section are subject to the
20 limitations set forth in Section 21251.13.

21 (e) For a member subject to Section 20281.5, the 180-day
22 election period shall not commence until the first day of the first
23 pay period commencing 24 months after becoming a member of
24 the system.

25 ~~SEC. 17.~~

26 *SEC. 21.* Section 21070.6 of the Government Code is amended
27 to read:

28 21070.6. (a) A member who is subject to Section 21076,
29 21076.5, or 21077 may be credited at no cost with all previous
30 state miscellaneous or state industrial service eligible to be credited
31 under Second Tier benefits. A member who is entitled to service
32 credit under this section shall apply for and identify time periods
33 for that service to the board.

34 (b) Operation and application of this section are subject to the
35 limitations set forth in Section 21251.13.

36 (c) This section shall only apply to service credit associated
37 with employment periods prior to July 1, 2013.

38 ~~SEC. 18.~~

39 *SEC. 22.* Section 21070.7 of the Government Code is amended
40 to read:

1 21070.7. Notwithstanding any other provision of this part,
2 Sections 21076, ~~2076.5~~, 21076.5, and 21077 shall not apply to
3 service with the California National Guard or service as a National
4 Guard member regardless of any prior membership status or
5 previous election made.

6 *SEC. 23. Section 21092 of the Government Code is amended*
7 *to read:*

8 21092. (a) The normal rate of contribution for a local
9 miscellaneous member subject to this article shall be 2 percent of
10 compensation paid the member. A contracting agency may pay all
11 or a portion of the member's normal contributions, pursuant to
12 Section 20691.

13 (b) *Notwithstanding subdivision (a), a new member, as defined*
14 *in Section 7522.04, shall have a contribution rate of at least 50*
15 *percent of the normal cost, pursuant to Section 7522.30.*

16 ~~SEC. 19.~~

17 *SEC. 24. Section 21150 of the Government Code is amended*
18 *to read:*

19 21150. (a) A member incapacitated for the performance of
20 duty shall be retired for disability pursuant to this chapter if he or
21 she is credited with five years of state service, regardless of age,
22 unless the person has elected to become subject to Section 21076,
23 21076.5, or 21077.

24 (b) A member subject to Section 21076, 21076.5, or 21077 who
25 becomes incapacitated for the performance of duty shall be retired
26 for disability pursuant to this chapter if he or she is credited with
27 10 years of state service, regardless of age, except that a member
28 may retire for disability if he or she had five years of state service
29 prior to January 1, 1985.

30 (c) For purposes of this section, "state service" includes service
31 to the state for which the member, pursuant to Section 20281.5,
32 did not receive credit.

33 *SEC. 25. Section 21202 of the Government Code is amended*
34 *to read:*

35 21202. A person employed in violation of Section ~~21220~~ 21221
36 shall be reinstated to membership in the category in which, and
37 on the date on which, the unlawful employment occurred.

38 *SEC. 26. Article 8 (commencing with Section 21220) of Chapter*
39 *12 of Part 3 of Division 5 of Title 2 of the Government Code is*
40 *repealed.*

1 SEC. 27. Article 8 (commencing with Section 21220) is added
2 to Chapter 12 of Part 3 of Division 5 of Title 2 of the Government
3 Code, to read:

4
5 Article 8. *Employment After Retirement*
6

7 21220. This article shall be deemed to comply with Article 4
8 of Chapter 21 of Division 7 of Title 1, known as the California
9 Public Employees' Pension Reform Act of 2013, and shall be
10 considered to further its purposes, including, but not limited to,
11 the purposes of Sections 7522.56 and 7522.57.

12 21221. (a) This section shall apply to any person who is
13 receiving a pension benefit from this system.

14 (b) A retired person shall not serve, be employed by, or be
15 employed through a contract directly by, a public employer in this
16 system if the retiree receives the benefit without reinstatement from
17 retirement, except as permitted by this article.

18 (c) A person who retires from a public employer in this system
19 may serve without reinstatement from retirement or loss or
20 interruption of benefits provided by this system upon appointment
21 by the appointing power or the governing body of a public
22 employer either during an emergency to prevent stoppage of public
23 business or because the retired person has skills needed to perform
24 work of limited duration.

25 (d) (1) Appointments of the person authorized under this section
26 shall not exceed a total for all employers in this system of 960
27 hours in a fiscal year. The monthly rate of pay for the employment
28 shall not be less than the minimum, nor exceed the maximum, paid
29 by the employer to other employees performing comparable duties,
30 divided by 173.333 to equal an hourly rate. A retired person
31 appointed pursuant to this section shall not receive any benefit,
32 incentive, compensation in lieu of benefits, or other form of
33 compensation in addition to the hourly pay rate. A retired person
34 whose employment without reinstatement is authorized by this
35 section shall acquire no service credit or retirement rights under
36 this section with respect to the employment unless he or she
37 reinstates from retirement.

38 (2) Appointments of the person authorized under this section
39 as a member of the academic staff of the California State University
40 shall not exceed a total for all employers in this system of 960

1 hours in a fiscal year or 50 percent of the hours the member
2 worked during the last fiscal year of service prior to retirement,
3 whichever is less. The monthly rate of pay for the employment
4 shall not be less than the minimum, nor exceed the maximum, paid
5 by the employer to other employees performing comparable duties,
6 divided by 173.333 to equal an hourly rate. A retired person
7 appointed pursuant to this section shall not receive any benefit,
8 incentive, compensation in lieu of benefits, or other form of
9 compensation in addition to the hourly pay rate. A retired person
10 whose employment without reinstatement is authorized by this
11 section shall acquire no service credit or retirement rights under
12 this section with respect to the employment unless he or she
13 reinstates from retirement.

14 (e) (1) Notwithstanding subdivision (c), any retired person shall
15 not be eligible to serve or be employed by a public employer in
16 this system if, during the 12-month period prior to an appointment
17 described in this section, the retired person received any
18 unemployment insurance compensation arising out of prior
19 employment subject to this article with a public employer. A retiree
20 shall certify in writing to the employer upon accepting an offer of
21 employment that he or she is in compliance with this requirement.

22 (2) A retired person who accepts an appointment after receiving
23 unemployment insurance compensation as described in this
24 subdivision shall terminate that employment on the last day of the
25 current pay period and shall not be eligible for reappointment
26 subject to this section for a period of 12 months following the last
27 day of employment.

28 21222. (a) A retired person shall not be eligible to be employed
29 pursuant to this article for a period of 180 days following the date
30 of retirement unless he or she meets one of the following
31 conditions:

32 (1) The public employer certifies the nature of the employment
33 and that the appointment is necessary to fill a critically needed
34 position before 180 days has passed and the appointment has been
35 approved by the governing body of the employer in a public
36 meeting. The appointment may not be placed on a consent
37 calendar.

38 (2) The state employer certifies the nature of the employment
39 and that the appointment is necessary to fill a critically needed
40 state employment position before 180 days has passed and the

1 *appointment has been approved by the Department of Human*
2 *Resources. The department may establish a process to delegate*
3 *appointing authority to individual state agencies, but shall audit*
4 *the process to determine if abuses of the system occur. If necessary,*
5 *the department may assume an agency's appointing authority for*
6 *retired workers and may charge the department an appropriate*
7 *amount for administering that authority.*

8 *(3) The retiree is eligible to participate in the Faculty Early*
9 *Retirement Program pursuant to a collective bargaining agreement*
10 *with the California State University that existed prior to January*
11 *1, 2013, or has been included in subsequent agreements.*

12 *(4) The retiree is a public safety officer or firefighter hired to*
13 *perform a function or functions regularly performed by a public*
14 *safety officer or firefighter.*

15 *(b) A retired person who accepted a retirement incentive upon*
16 *retirement shall not be eligible to be employed pursuant to this*
17 *section for a period of 180 days following the date of retirement*
18 *and subdivision (a) shall not apply.*

19 *21223. A retired person who has not attained the normal*
20 *retirement age shall have a bona fide separation in service to the*
21 *extent required by the Internal Revenue Code, and the regulations*
22 *promulgated thereunder, before working after retirement pursuant*
23 *to this article. The board shall establish, by regulation, the criteria*
24 *under which a bona fide separation is satisfied.*

25 *21224. (a) A person employed in violation of this article shall*
26 *be reinstated to membership in the category in which, and on the*
27 *date on which, the unlawful employment occurred.*

28 *(b) Upon reinstatement, the retired member employed in*
29 *violation of this article shall:*

30 *(1) Reimburse this system for any retirement allowance received*
31 *during the period or periods of employment that are in violation*
32 *of law.*

33 *(2) Pay to this system an amount of money equal to the employee*
34 *contributions that would otherwise have been paid during the*
35 *period or periods of unlawful employment, plus interest thereon.*

36 *(3) Contribute toward reimbursement of this system for*
37 *administrative expenses incurred in responding to this situation,*
38 *to the extent the member is determined by the executive officer to*
39 *be at fault.*

1 (c) Any public employer in this system that employs a retired
2 member in violation of this article shall, upon reinstatement of the
3 retired member:

4 (1) Pay to this system an amount of money equal to employer
5 contributions that would otherwise have been paid for the period
6 or periods of time that the member is employed in violation of this
7 article, plus interest thereon.

8 (2) Contribute toward reimbursement of this system for
9 administrative expenses incurred in responding to this situation,
10 to the extent the employer is determined by the executive officer
11 of this system to be at fault.

12 (d) This section shall not apply to violations under subdivision
13 (e) of Section 21221.

14 21225. (a) This section shall apply to any retired person who
15 is receiving a pension benefit from a public retirement system and
16 is first appointed on or after January 1, 2013, to a salaried position
17 on a state board or commission.

18 (b) A person who is retired from a public retirement system may
19 serve without reinstatement from retirement or loss or interruption
20 of benefits provided that appointment is to a part-time state board
21 or commission. A retired person whose employment without
22 reinstatement is authorized by this subdivision shall acquire no
23 benefits, service credit, or retirement rights with respect to the
24 employment. Unless otherwise defined in statute, for the purpose
25 of this section, a part-time appointment shall mean an appointment
26 with a salary of no more than sixty thousand dollars (\$60,000)
27 annually, which shall be increased in any fiscal year in which a
28 general salary increase is provided for state employees. The
29 amount of the increase provided by this section shall be
30 comparable to, but shall not exceed, the percentage of the general
31 salary increases provided for state employees during that fiscal
32 year.

33 (c) A person who is retired from the Public Employees'
34 Retirement System shall not serve on a full-time basis on a state
35 board or commission without reinstatement unless that person
36 serves as a nonsalaried member of the board or commission and
37 receives only per diem authorized to all members of the board or
38 commission. A person who serves as a nonsalaried member of a
39 board or commission shall not earn any service credit or benefits

1 *in the Public Employees' Retirement System or make contributions*
2 *with respect to the service performed.*

3 *(d) A person retired from a public retirement system other than*
4 *the Public Employees' Retirement System who is appointed on a*
5 *full-time basis to a state board or commission shall choose one of*
6 *the following options:*

7 *(1) The person may serve as a nonsalaried member of the board*
8 *or commission and continue to receive his or her retirement*
9 *allowance, in addition to any per diem authorized to all members*
10 *of the board or commission. The person shall not earn service*
11 *credit or benefits in the Public Employees' Retirement System and*
12 *shall not make contributions with respect to the service performed.*

13 *(2) (A) The person may suspend his or her retirement allowance*
14 *or allowances and instate as a new member of the Public*
15 *Employees' Retirement System for the service performed on the*
16 *board or commission. The pensionable compensation earned*
17 *pursuant to this paragraph shall not be eligible for reciprocity*
18 *with any other retirement system or plan.*

19 *(B) Upon retiring for service after serving on the board or*
20 *commission, the appointee shall be entitled to reinstatement of any*
21 *suspended benefits, including employer provided retiree health*
22 *benefits, that he or she was entitled to at the time of being*
23 *appointed to the board or commission.*

24 *(e) Notwithstanding subdivisions (c) and (d), a person who*
25 *retires from a public employer may serve without reinstatement*
26 *from retirement or loss or interruption of benefits provided by the*
27 *retirement system upon appointment to a full-time state board*
28 *pursuant to Section 5075 of the Penal Code.*

29 *21230. A retired person may serve without reinstatement from*
30 *retirement or loss or interruption of benefits provided by this*
31 *system, as follows:*

32 *(a) (1) As a subordinate judicial officer whose position, upon*
33 *retirement, is converted to a judgeship pursuant to Section 69615,*
34 *and he or she returns to work in the converted position, and the*
35 *employer is a trial court.*

36 *(2) As a retiree who takes office as a judge of a court of record*
37 *pursuant to Article VI of the California Constitution or a retiree*
38 *of the Judges' Retirement System I or the Judges' Retirement*
39 *System II who is appointed to serve as a retired judge.*

40 *(b) (1) As an elective officer.*

1 (2) *If a retired person serves without reinstatement from*
2 *retirement in an elective office and part or all of his or her*
3 *retirement allowance is based on service in that elective office,*
4 *the portion of the allowance based on service in that elective office*
5 *shall be suspended during incumbency in that elective office. The*
6 *entire retirement allowance shall be paid for time on and after the*
7 *person vacates the elective office in the monthly amount payable*
8 *had the allowance not been suspended. The governing body of*
9 *every employer other than the state shall cause immediate notice*
10 *to be given to this system of the election of any retired person to*
11 *an office of the employer.*

12 ~~SEC. 20.~~

13 SEC. 28. Section 22760 of the Government Code is amended
14 to read:

15 22760. “Annuitant” means:

16 (a) A person, other than a National Guard member defined in
17 Section 20380.5, who has retired within 120 days of separation
18 from employment and who receives a retirement allowance under
19 any state or University of California retirement system to which
20 the state was a contributing party.

21 (b) A surviving family member receiving an allowance in place
22 of an annuitant who has retired as provided in subdivision (a), or
23 as the survivor of a deceased employee under Section 21541,
24 21546, 21547, or 21547.7, or similar provisions of any other state
25 retirement system.

26 (c) A person who has retired within 120 days of separation from
27 employment with a contracting agency as defined in Section 22768
28 and who receives a retirement allowance from the retirement
29 system provided by the employer, or a surviving family member
30 who receives the retirement allowance in place of the deceased.

31 (d) A judge who receives the benefits provided by subdivision
32 (e) of Section 75522.

33 (e) A person who was a state member for 30 years or more and
34 who, at the time of retirement, was a local member employed by
35 a contracting agency.

36 (f) A Member of the Legislature or an elective officer of the
37 state whose office is provided by the California Constitution, who
38 has at least eight years of credited service, and who meets the
39 following conditions:

1 (1) Permanently separates from state service on or after January
2 1, 1988, and not more than 10 years before or 10 years after his
3 or her minimum age for service retirement, or is an inactive
4 member of the Legislators' Retirement System pursuant to Section
5 9355.2.

6 (2) Receives a retirement allowance under a state retirement
7 system supported in whole or in part by state funds other than the
8 University of California Retirement System.

9 (g) An exempt employee who meets all of the following
10 conditions:

11 (1) Has at least 10 years of credited state service that includes
12 at least two years of credited service while an exempt employee.

13 (2) Permanently separates from state service on or after January
14 1, 1988, and not more than 10 years before or 10 years after his
15 or her minimum age for service retirement.

16 (3) Receives a retirement allowance under a state retirement
17 system supported in whole or in part by state funds other than the
18 University of California Retirement System.

19 (h) A person receiving a survivor allowance pursuant to Article
20 3 (commencing with Section 21570) of Chapter 14 of Part 3
21 provided that he or she was eligible to enroll in a health benefit
22 plan on the date of the member's death, on whose account the
23 survivor allowance is payable.

24 (i) (1) A family member of a deceased retired member of the
25 State Teachers' Retirement Plan, if the deceased member meets
26 the following conditions:

27 (A) Retired within 120 days of separation from employment.

28 (B) Retired before the member's school employer elected to
29 contract for health benefit coverage under this part.

30 (C) Prior to his or her death, received a retirement allowance
31 that did not provide for a survivor allowance to family members.

32 (2) The family member shall elect coverage as an annuitant
33 within one calendar year from the date that the deceased member's
34 school employer elected to contract for health benefit coverage
35 under this part.

36 (j) A person who reinstates benefits pursuant to subparagraph
37 (ii) of paragraph (2) of subdivision (d) of Section 7522.57.

38 *SEC. 29. Section 22772 of the Government Code is amended*
39 *to read:*

40 22772. (a) "Employee" means:

1 (1) An officer or employee of the state or of any agency,
2 department, authority, or instrumentality of the state, including
3 the University of California.

4 (2) An employee who is employed by a contracting agency and
5 participates in a publicly funded retirement system provided by
6 the contracting agency, or an officer or official of a contracting
7 agency.

8 ~~(3) An annuitant receiving a retirement allowance pursuant to~~
9 ~~Section 21228 who is employed by a contracting agency.~~

10 ~~(4)~~
11 (3) A teaching associate, lecturer, coach, or interpreter employed
12 by the California State University who is appointed to work in an
13 academic year classification for at least six weighted teaching units
14 for one semester, or for at least six weighted teaching units for two
15 or more consecutive quarter terms. This paragraph does not apply
16 to a state member employed by the California State University,
17 unless provided for in a memorandum of understanding reached
18 pursuant to Chapter 12 (commencing with Section 3560) of
19 Division 4 of Title 1 or authorized by the Trustees of the California
20 State University for employees excluded from collective
21 bargaining.

22 ~~(5)~~
23 (4) All employees in job classes specified in subdivision (a) of
24 Section 14876.

25 (b) Except as otherwise provided by this part, “employee” does
26 not include any of the following:

27 (1) A person employed on an intermittent, irregular, or less than
28 half-time basis, or an employee similarly situated.

29 (2) A National Guard member described in Section 20380.5.
30 ~~SEC. 21.~~

31 *SEC. 30.* Section 75005 of the Government Code is amended
32 to read:

33 75005. Notwithstanding any other provision of law, this chapter
34 shall be administered and governed by the Board of Administration
35 of the Public Employees’ Retirement System in accordance with
36 the Public Employees’ Retirement Law to the same extent and
37 with the same effect as if those provisions are contained in the
38 Judges’ Retirement Law, except for those provisions which provide
39 for the payment of an allowance or other benefit and except for
40 those provisions which conflict with any provision of the Judges’

1 Retirement Law. To the extent applicable, the Board of
2 Administration of the Public Employees' Retirement System shall
3 also administer this chapter in conformance with the California
4 Public Employees' Pension Reform Act of 2013 (Article 4
5 (commencing with Section 7522) of Chapter 21 of Division 7 of
6 Title 1) to the same extent and with the same effect as if the
7 provisions of the act are contained in the Judges' Retirement Law.
8 If the Board of Administration of the Public Employees'
9 Retirement System determines that there is a conflict between the
10 provisions of the California Public Employees' Pension Reform
11 Act of 2013 and this chapter, the provisions of the California Public
12 Employees' Pension Reform Act of 2013 shall control. "State
13 Controller" or "Controller" as used in this chapter, or any other
14 provision of law relating to the chapter, shall be construed to refer
15 to and mean the "Board of Administration of the Public Employees'
16 Retirement System"; however, the Controller shall continue to
17 perform the duties prescribed in Sections 75092, 75097, 75101,
18 and 75102.

19 All payments from the Judges' Retirement Fund shall be made
20 upon warrants drawn by the Controller upon demands by the Board
21 of Administration of the Public Employees' Retirement System.

22 ~~SEC. 22.~~

23 *SEC. 31.* Section 75505 of the Government Code is amended
24 to read:

25 75505. (a) This chapter shall be administered and governed
26 pursuant to the Public Employees' Retirement Law to the same
27 extent and with the same effect as if those provisions are contained
28 in this chapter, except for those provisions that provide for the
29 payment of an allowance or other benefit and except for those
30 provisions that conflict with any provision of this chapter. To the
31 extent applicable, the Board of Administration of the Public
32 Employees' Retirement System shall administer this chapter in
33 conformance with the California Public Employees' Pension
34 Reform Act of 2013 (Article 4 (commencing with Section 7522)
35 of Chapter 21 of Division 7 of Title 1) to the same extent and with
36 the same effect as if the provisions of the act are contained in the
37 Judges' Retirement System II Law. If the Board of Administration
38 of the Public Employees' Retirement System determines that there
39 is a conflict between the provisions of the California Public
40 Employees' Pension Reform Act of 2013 and this chapter, the

1 provisions of the California Public Employees' Pension Reform
2 Act of 2013 shall control.
3 (b) All payments from the Judges' Retirement System II Fund
4 shall be made upon warrants drawn by the Controller upon
5 demands by the Board of Administration of the Public Employees'
6 Retirement System.

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